

ID: CCA-723115-08

Number: **200848053**

Office:

Release Date: 11/28/2008

UILC: 0099.04-14

From:

Sent: [Wednesday, July 23, 2008 11:15 AM]

To:

Cc:

Subject: 1204/801 Information

I have reviewed the two documents you provided which evaluate employees working in the Automated Underreporter Program based in part on their case closure rate. As we discussed yesterday, I do not believe this constitutes a violation of RRA '98 Section 1204. Section 1204 prohibits the Service from using records of tax enforcement results (ROTERTs) to evaluate employees or to impose or suggest production quotas or goals on employees. Cases closed and time per case are not ROTERTs. See, e.g., 26 C.F.R. section 801.6T(d). Therefore their use in evaluating employees, or suggesting production quotas, does not run afoul of Section 1204. However, the two examples you provided *would* seem to constitute a violation of 26 CFR section 801.3T(e)(3), which prohibits evaluating the performance of these employees based on outcome-neutral quantity measures such as cases closed, work items completed, time per case, and inventory information. See 26 CFR section 801.6T(c).

If you have any questions about this, or if I may be of further assistance, please feel free to contact me.